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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/601,635	06/24/2003	Anthony B. Phipps	84685 DY 3002 GNN	1440
20736	7590	04/13/2005	EXAMINER	
MANELLI DENISON & SELTER 2000 M STREET NW SUITE 700 WASHINGTON, DC 20036-3307			TANNER, HARRY B	
			ART UNIT	PAPER NUMBER
			3744	

DATE MAILED: 04/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

SP

Office Action Summary	Application No. 10/601,635	Applicant(s) PHIPPS, ANTHONY B.	
	Examiner Harry B. Tanner	Art Unit 3744	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>6/24/03</u> . | 6) <input type="checkbox"/> Other: ____ |

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the shaped end of the gate member, the barreled and tapered end, the opening reciprocally shaped, the guide means, the hollow gate member, the compliant engagement surface, the opening in alignment with the major axis of the gate member and the opening radially presented to the major axis of the gate member as recited in claims 8, 9, 10, 12, 13, 14, 15, 16 and 17 respectively must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 12 and 17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is assumed for purposes of examination that the last line of claim 12 should read "the opening". It is assumed for purposes of examination that the "25" at line 1 of claim 17 is a typographical error.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-2, 4, 6-9, 15 and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Gifford (3,719,322). Gifford discloses a gate arrangement for controlling airflow in response to temperature having an opening 12, a gate component 32 and a gate member 30 with a compliant engagement surface and a different thermal coefficient of expansion such that the opening closes below a specific adjustable temperature.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gifford (3,719,322). Gifford is applied as in the rejection of claim 1 above. In Gifford valve, the opening is in alignment with the major axis of the gate member. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the valve of Gifford such that the opening was mounted at an angle to the major axis of the gate member since the operation of the valve would not be changed in any substantial way.

Claims 3, 11, 18 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gifford (3,719,322) as applied to claim 1 above, and further in view of UK reference 2354290. The UK reference teaches the use of an airflow valve with one or more valve members in order to control the flow of cooling air in the turbine of a jet engine. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the jet engine of the UK reference such that it included the use of the Gifford valve for controlling airflow in order to provide a simple and durable valve arrangement.

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gifford (3,719,322) as applied to claim 1 above, and further in view of Weiland. Weiland teaches the use of a reciprocal opening (see 92, 94, 96 of Figure 5). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the valve of Gifford such that it included the use of a reciprocal opening in view of the teachings of Weiland.

Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gifford (3,719,322) as applied to claim 1 above, and further in view of Newell. Newell teaches the use of guide means 19 in order to support the gate member of a temperature controlled valve. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the valve of Gifford such that it included the use of guide means in order to support the gate member in view of the teachings of Newell.

Claims 13-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gifford (3,719,322) as applied to claim 1 above, and further in view of Alvarado. Alvarado teaches the use of a hollow gate member with a closed end for engagement with the opening (see 6 and 15 of Figure 2). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the valve of Gifford such that it included the use of a hollow gate member with a closed end for engagement with the opening in view of the teachings of Alvarado.

Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gifford (3,719,322) as applied to claim 1 above, and further in view of Flagg. Flagg teaches a temperature responsive valve in which the opening is radially presented to the major axis of the gate member (see 22 and 18 of Figure 2). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the valve of Gifford such that the opening is radially presented to the major axis of the gate member in view of the teachings of Flagg.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Harry B. Tanner whose telephone number is (571) 272-4813. The examiner can normally be reached 8:30 am to 6:00 pm Monday, Tuesday, Wednesday and Friday and 2:00 pm to 6:00 pm Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Denise Esquivel, can be reached on (571) 272-4808. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://portal.uspto.gov/external/portal/pair>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Harry B. Tanner
Primary Examiner
Art Unit 3744